

In search for principles

The global governance of information

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This post opens the book symposium on Michael Riegner's "The International Institutional Law of Information" (Mohr Siebeck 2017; original German title: Informationsverwaltungsrecht internationaler Institutionen). It will be followed by a text of Hendrik Simon and a response by the author.

Michael Riegner's [book](#) was written under the supervision of *Phillip Dann* at the Humboldt University of Berlin. It examines the phenomenon that international institutions are also acting under the conditions and possibilities of globalization and digitization through information and knowledge, and have thus found possibilities for action that are not only legally and financially determined. The work is thus dedicated to a "global governance" of and through information in a comprehensive sense. *Riegner* emphasizes right at the beginning with reference to *E. Schmidt-Aßmann* that the law of international administration cannot be understood in a manner analogous to the state as being decision- and court-based, but must be reconstructed in relation to information. In the context of global governance, the information relations of international institutions are no longer limited to the member states and certainly not only to their governments, but also include individuals, civil society organisations, companies, academia and the general public of the states. As this shall not be contested, there is great curiosity about how actual developments can be better grasped by elaborating structures and principles and at the same time making them fruitful for the further development of law.

The study's subject is analysed by means of intertextualization, dogmatics and comparison. As a continuous field of reference – which is not sufficiently reflected in the alliteration-loving German main title of the work (*Informationsverwaltungsrecht internationaler Institutionen*) – it chooses development cooperation, which is consistently abbreviated as DC. This area is "reconstructed as an information order" in order to "on the one hand contribute to the further development of this field of reference and on the other hand identify general patterns that shape information relations in other areas of international administrative law as well." This self-imposed task of the author is demanding and ambitious, but it is also fraught with danger: As with every attempt to derive general statements from one particular field of reference for other areas of law, there is the danger of looking at the respected field of reference with view to possible generalisations. This approach risks to leave out specific features which on the one hand are characteristic of the field of reference and on the other hand are at the same time opposed to generalisation. If one succumbs to this danger, neither the field of reference is developed further, nor are valid results generated for other areas. Riegner's work escapes this trap. The entire analysis fits together so wonderfully and forms a greater whole that one does not even want to know whether the author actually inductively inferred

dogmatic principles from an interdisciplinary determined finding or already had these principles in mind in order to confirm them deductively. In any case, the investigation comprises three chapters:

The first chapter introduces the information management of international development institutions without being exclusively descriptive. The reader becomes acquainted with the “ambivalence of international information management”, resulting from the fact that on the one hand, it is “a condition for sovereign capacity to act and fulfil tasks” and “on the other hand it [also] [serves] the control and [...] [may] represent a form of exercising power that requires legitimation”. It further introduces into the “Doing Business” ranking, with which the World Bank has been measuring public regulation of business in all member states since 2003 and assessing it against the measure of economic efficiency (sic!). An overview of development institutions and legal bases in the first chapter leads over to a dogmatic section which (in the author’s understanding, probably: re)constructs development administrative law as an information system and at the same time opens it up to administrative law components found in competence, organisational and procedural provisions.

The second chapter then develops or derives three “general principles of development-specific information administrative law”: The principle of task-oriented information cooperation, which obliges international institutions and member states to cooperate in order to fulfil institutional tasks, is committed to a functionalist paradigm of international information management, whereas the principle of collective informational self-determination and the principle of individual informational autonomy are based on the idea of self-determination. All three principles rely on an open concept of information management, which is not always and exclusively characterized by a flow of information, but conversely also by information restrictions: the importance of protecting secrets as a prerequisite for a flow of information is recognized, the difference between information quantity and information quality is emphasized, and finally it is also emphasized that “correctness” always depends on the context and procedure. With regard to the principle of individual information autonomy, Riegner uses *Jellinek’s* doctrine of status and distinguishes the dissemination of information *to* citizens (to be secured by means of individual information claims) from the acquisition of information *from* individuals (guaranteed by corresponding information claims) and the obligations (resulting from social human rights) to acquire information *about* citizens. The difference between subjective claims to access to information and objective obligations to inform is also clearly emphasised: “Only an [...] individual claim makes the individual an active information subject and distinguishes him from a passive beneficiary of transparency.” Overall, “the principle of individual informational autonomy [...] aims to realise the emancipatory potential of individual rights by placing the power of disposal over information in the hands of the individual and thus decentralising it.” It thus forms “a structural counterbalance to the principles of information cooperation and collective self-determination, which concentrate control over information-related action and knowledge generation in the hands of international or state information administrations.”

The third chapter then becomes more concrete again, namely by examining special features of the law on information administration of the World Bank and the UNDP. Thereby, it first of all considers the performance procedures which in the context of information are characterized by multipolar relationships, because an international development institution enters into special relationships with a member state and individuals in terms of information law. Subsequently, individual access to information is examined which is characterized by a bilateral relationship between an individual and an international development institution. Each of these three sub-studies concludes with a brief comparative assessment based on the principles elaborated in Chapter 2.

The final considerations put the author's work into the context of the academic discourse on information management, by describing development administrative law as an information order as a result of a comprehensive comparison. It then promotes information administrative law as a field of research in public international law studies and international administrative law.

This leads to an overall view: The work "is to be understood as a contribution to international administrative law, for whose further development it makes the discourse and dogmatics of information administrative law fruitful." This is exactly what the work has achieved. In an impressive way, it brings together observations of (national, in this respect primarily German) information administrative law with observations of international development law. One does not have to agree with every thesis and every finding of the author, one does not have to go completely into "Riegner's world" in order to read the work with great benefit. The detailed knowledge on international development cooperation is as remarkable as the ability to view it from a principled meta-level in a structuring way. The permanent reconnection to the actual work of the selected international development institutions prevents the study from floating away to a theoretical level where it no longer reaches attention. To the contrary, the work should be widely received, even outside the German-speaking world. Reading it makes one completely forget that it is "only" a dissertation – it would undoubtedly have the potential to be accepted as a post-doctoral thesis.

MICHAEL RIEGNER, Informationsverwaltungsrecht internationaler Institutionen. Dargestellt am Entwicklungsverwaltungsrecht der Weltbank und Vereinten Nationen, Tübingen, Mohr Siebeck, 2017, XXI, 540 S.

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